

**Congress of the United States**  
**Washington, DC 20515**

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Received & Inspected

August 8, 2019

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FCC Mailroom

The Honorable Ajit Pai  
Chairman  
Federal Communications Commission  
445 12th St SW  
Washington DC 20554

Dear Chairman Pai,

I write to express my concerns that the Federal Communications Commission (FCC) is failing to act to stop abusive and unwarranted equipment rental fees for broadband service. These unreasonable fees defy common sense and undermine the FCC's stated "number one priority" of closing the digital divide. As the Chairman of the Appropriations Subcommittee on Financial Services and General Government—which provides funding to the FCC—I find the lack of action to protect consumers troubling.

As reported recently, a consumer in Texas was charged a \$10 "rental" fee by Frontier Communications for a router that they neither asked for nor ever received. According to the company, "Frontier charges you a monthly lease fee for your Frontier router or modem—whether you use it or not." As justification, Frontier says that it costs more to serve customers that use their own equipment, because these customers call with more complaints and require more resources for troubleshooting.

Frontier's justifications are difficult to follow. Routers are common equipment, and millions of Americans use their own devices to access broadband and television communications services. Ample troubleshooting resources exist online. I find it difficult to see how this fee serves as anything other than a way for Frontier to disguise the true cost of its service to customers.

This practice undercuts long-standing, hard-fought precedent that consumers should be able to use their own devices with communications networks. In addition, it reveals just how harmful the Commission's Restoring Internet Freedom order has been to Americans. The FCC's mission is "to make available, so far as possible, to all the people of the United States ... a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges ... ." The FCC continues to provide billions of dollars annually to help build out broadband services in unserved areas. Consumers have a natural and reasonable expectation that the FCC is the right agency to contact when they have issues with broadband service or billing practices, and they are right to expect prompt action.

Indeed, my understanding is that the FCC has received correspondence about this issue—but that the Commission took no action in response to the customer complaint other than acknowledging that Frontier had sent a response back to the consumer.

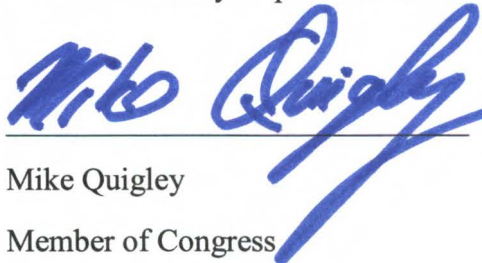
You have stated that, “since my first day as Chairman ... my number one priority has been closing the digital divide and bringing the benefits of the Internet age to all Americans.” Yet policies like these—apparently unchallenged by the FCC—create consumer confusion and make broadband service more difficult and expensive to obtain.

Given these concerns, I request that the FCC provide responses to the following questions no later than September 1, 2019:

1. How many complaints has the FCC received about broadband equipment rental fees in the past year? Has it conducted an analysis of any of these complaints? If so, what did the FCC find? If not, why not? How did the FCC respond to these complaints? Does the FCC plan to make a substantive response to these types of complaints?
2. The Restoring Internet Freedom Order became effective in May of last year. What jurisdiction does the FCC now have over router, modem, or other fees charged by broadband providers, or by multichannel video programming distributors that provide broadband service either on a combined or a standalone basis?
3. The Restoring Internet Freedom Order stated that “In the unlikely event that ISPs engage in conduct that harms Internet openness ... [o]ther legal regimes—particularly antitrust law and the [Federal Trade Commission’s] authority under Section 5 of the FTC Act to prohibit unfair and deceptive practices—provide protection for consumers.” In addition, the FCC and FTC signed a Memorandum of Understanding (MOU) in December 2017 that, among other obligations, states that the two agencies will discuss potential investigations, coordinate investigatory activities, and securely share consumer complaints.

Accordingly, has the FCC referred or shared any complaints about potentially unfair or deceptive billing practices by broadband providers to the FTC for investigation since the MOU went into effect? If so, how does the FCC monitor the progress and resolution of such referrals? If not, why not? Has the FCC assisted the FTC with any investigations in broadband provider billing practices since the MOU went into effect? If not, why not?

Thank you for your cooperation and I look forward to a timely response on these important questions.

  
Mike Quigley  
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF  
THE CHAIRMAN

November 1, 2019

The Honorable Mike Quigley  
U.S. House of Representatives  
2458 Rayburn House Office Building  
Washington, DC 20515

Dear Congressman Quigley:

Thank you for your letter regarding equipment rental fees for broadband service. As you note at the outset, my top priority as Chairman has been to close the digital divide. We have taken numerous steps toward achieving that goal, from adopting one-touch make-ready policies to efficiently distributing federal funding to unserved parts of the country to creating a window for Tribal entities to obtain spectrum to serve rural Tribal areas with advanced wireless services.

Of course, the Commission also has an obligation to protect consumers. It fulfills that obligation in part by providing consumers with an effective informal complaint process to resolve issues they may have with their providers.

Under this process, consumers can file complaints online with the Commission. Those complaints are then served on the specific provider for a response. In most instances, this inquiry letter from the Consumer and Governmental Affairs Bureau results in a favorable outcome for the consumer. If the consumer is not satisfied, he or she can provide additional information to the Commission for further review. This practice has been in place at the Commission since 1986 and it has worked very well overall during Democratic and Republican Administrations alike. Additionally, for some issues, the Commission uses the data collected from complaints to inform policy decisions and potential enforcement actions.

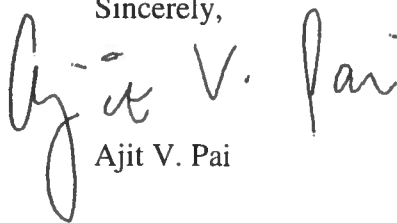
In the past year, consumers filed approximately 450 informal complaints relating to broadband equipment rental fees. Nearly all of these complaints were served on the relevant provider for a response. With respect to jurisdiction over fees for equipment, the FCC does not regulate the fees charged—such matters lie within the purview of other agencies, such as the Federal Trade Commission (which polices “unfair or deceptive acts or practices in or affecting commerce”) among others—but it does require broadband Internet access providers to disclose their commercial terms of service, including prices for services.

An additional note about the FTC. As the FCC explained in 2017, its actions to restore broadband Internet access service to its long-standing, bipartisan classification as an information service also restored the broad authority of the FTC to take enforcement action against unfair acts or practices. As you know, the Commission has a Memorandum of Understanding with the FTC under which the agencies share information and the FTC will take appropriate enforcement action against “unfair, deceptive, or otherwise unlawful acts or practices” by Internet service providers. *See Restoring Internet Freedom FCC-FTC Memorandum of Understanding* at 2. An

unfair act or practice “is one that creates substantial consumer harm, is not outweighed by countervailing benefits to consumers, and that consumers could not reasonably have avoided.” (FCC 17-166, para 141). Informal complaints received by the Commission raising potentially unfair or deceptive billing practices by Internet service providers have been referred to the FTC. The FCC does not have information about the procedural posture or substantive resolution of any matters referred to the FTC; that agency would be better positioned to convey that information.

Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Ajit V. Pai". The signature is fluid and cursive, with the first name "Ajit" being the most prominent part.

Ajit V. Pai